

**Comprehensive Community Corrections Act  
And  
Pretrial Services Act**

***Alternative Funding Methodology Feasibility Report***



Virginia Department of Criminal Justice Services  
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Department of Criminal Justice Services  
Correctional Services Section  
For the Chairs of the Senate Finance and  
House Appropriations Committees  
October 2000***

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## *Executive Summary*

The 2000 Virginia Appropriations Act directed the Department of Criminal Justice Services (DJCS), the Virginia Community Criminal Justice Association (VCCJA), the Virginia Municipal League (VML), and the Virginia Association of Counties (VACo), to study the feasibility of replacing the current system of discretionary grants with an alternative funding methodology to distribute funds for the Comprehensive Community Corrections Act (CCCA) and the Pretrial Services Act (PSA).

Local community-based probation and pretrial supervision services are a permanent function that is imbedded in the criminal justice system in Virginia. Meeting minimum State guidelines, local programs have been able to tailor their services to meet their court and community expectations and needs. These program service variations are by design and the result of the effort to empower each locality to determine which services best serve the offender and defendant population in their area. Local probation and pretrial services programs should remain a local option throughout Virginia.

The study committee determined that the primary function of any alternative funding methodology would be as a mechanism to request, document, and justify the need for additional funding from the state legislature for the CCCA and PSA service programs. The study workgroup also determined that the distribution of CCCA and PSA funding by DCJS has been equitable and well reasoned. However, if an alternative funding methodology is adopted to distribute funding from DCJS to localities then the study committee recommends delayed implementation and creation of a study group to review the impact on programs for a year prior to implementation.

## **Report Authority and Purpose**

The 2000 Virginia Appropriations Act directs the Department of Criminal Justice Services (DJCS), in conjunction with the Virginia Community Criminal Justice Association (VCCJA), the Virginia Municipal League (VML), and the Virginia Association of Counties (VACO), to study the feasibility of replacing the current system of discretionary grants with an alternative funding methodology to distribute funding for the Comprehensive Community Corrections Act (CCCA) and the Pretrial Services Act (PSA). The funding methodology shall consider caseloads and other factors as appropriate to ensure an equitable distribution of funding while maintaining the current level of accountability provided by the discretionary grant process. The report findings and recommendations are due to the Chairmen of the Senate Finance and House Appropriations Committees by October 15, 2000.

The primary intent of this study is to determine if it is feasible to create an objective alternative funding methodology to be used in requesting funds for CCCA and PSA programs from the state legislature. A secondary intent is to determine the feasibility of replacing the current system of discretionary grants with an alternative methodology.

## ***Background***

### **Local Community-based Probation and Pretrial Services Program Description**

The Comprehensive Community Corrections Act and the Pretrial Services Act established the local community-based probation and pretrial services programs in 1995. These Acts authorized the Department of Criminal Justice Services to offer funding to counties and cities to develop, establish, and maintain programs for the purpose of providing the judicial system with sentencing alternatives for offenders convicted of certain misdemeanors and non-violent felonies, pretrial background investigations, and supervision for pretrial defendants. In the case of local community-based probation programs, eligible offenders are those upon whom the court imposes a sentence of twelve months or less, who may require less than institutional custody, and who are 18 years old or considered an adult at the time of conviction. The court may order placement in a local community-based program prior to or at the time of sentencing. The CCCA/PSA-funded agency is typically the sole provider of community supervision services for the General District Court system and also of pretrial supervision and investigation for adults in the court system. Some of these agencies also provide supervision services for Class 5 and 6 felons referred from circuit courts.

Under the CCCA and PSA, establishing a system of community-based services is a local option unless a city, county, or combination thereof is required by §53.1-82.1 to file a plan for community-based corrections with the State Board of Corrections. This applies to localities that have been approved for, or are seeking funding for, jail construction project reimbursement. Any city, county, or combination thereof which either elects to, or is required to, establish a system of community-based services as defined in §§53.1-181 & 53.1-182.1 (CCCA) shall provide for all components, including: local probation supervision, community service, home incarceration, electronic monitoring, and substance abuse

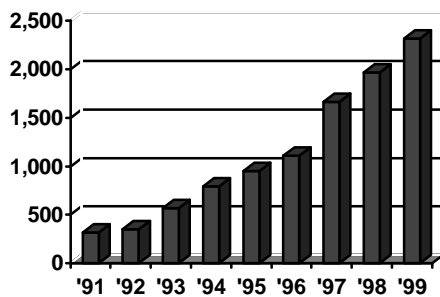
assessment, testing, and treatment. In accordance with §§19.2-152.7 and 53.1-185.2 of the Code of Virginia, counties and cities shall be required to establish CCCA and PSA programming only to the extent funded by the Commonwealth through the General Appropriations Act.

Local community-based probation programs provide local probation supervision to offenders sentenced by the court pursuant to §19.2-303.3 of the *Code of Virginia*. Offenders may be placed on local probation only, or in conjunction with other components such as home incarceration; electronic monitoring; community service; substance abuse screening and assessment, testing, and/or treatment; and a variety of other services/counseling that may vary from jurisdiction to jurisdiction. Some of those local alternative services include shoplifter prevention, cognitive skills building, anger management, batterer intervention groups, and day reporting centers. Local community-based probation programs provide such post-sentencing alternatives in addition to probation supervision for certain offenders with the goal of reducing the incidence of repeat offenders and to enhance public safety. In addition, programs strive to increase offender accountability to the community through community service and payment of court costs and restitution. Local programs allow the locality to provide for the specific rehabilitative needs of selected offenders rather than placing these offenders in programs that may be inappropriate or sentencing them to more costly jail or prison time.

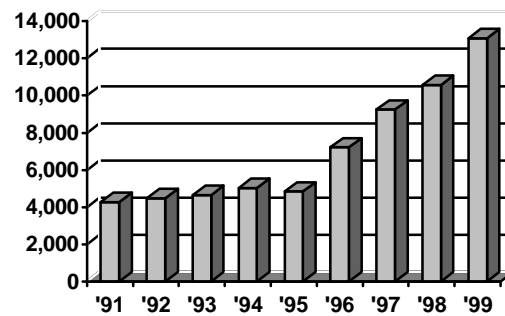
Pretrial services programs provide more effective protection of society by providing information and services to assist judicial officers in determining risk to public safety when making an initial bail release decision, or in reviewing and amending the initial conditions of release on bail at subsequent hearings. A pretrial services program also provides supervision and assurances that defendants will comply with the conditions ordered when released to the custody of the program. The pretrial screening, interview, and background investigation provides the criminal history and community stability of a defendant including any indication of a risk of flight or the potential for criminal activity if released pending trial. Pretrial supervision provides the defendant with the opportunity to remain in the community while awaiting trial where he or she can remain employed and productive. Pretrial programs also reduce jail bed utilization by expediting the release process for appropriate defendants. This process frees up jail bedspace for defendants who pose a greater risk to public safety.

As indicated in Figure 1 and Figure 2, local community-based probation and pretrial services programs have experienced significant growth since FY1995. The average daily caseload (statewide) of pretrial defendants under supervision has increased by over 144% since the passage of the PSA. This increase is largely due to the fact that the number of agencies providing pretrial services has almost doubled since 1996. There were 10,248 placements to pretrial supervision and 37,297 pretrial investigations conducted in FY1999. Also in FY1999, the courts made 28,641 placements to local community-based probation supervision. On June 30, 1999, there were over 13,000 offenders under active local community-based supervision whereas there were about 10,500 offenders under active supervision just one year before. Preliminary FY 2000 data indicate that these growth trends have continued for both the local community-based probation and pretrial programs.

**Figure 1. Pretrial Services  
Average Daily Caseload**



**Figure 2. Community Corrections  
Caseloads (Point in Time)**



### **Local Community-based Probation and Pretrial Services History**

During the 1994 Special Session of the Virginia General Assembly, a significant change in the administration of local community-based corrections was instituted. The Community Diversion Incentive Act (CDI) of 1980 was repealed and replaced by the Comprehensive Community Corrections Act (CCCA) and Pretrial Services Act (PSA) of 1995. This change was due, in part, to the 1993 Legislative Commission on Sentencing and Parole Reform and the 1994 Governor's Commission on Parole Abolition and Sentencing Reform recommendation to expand the existing alternatives to incarceration.

Under the CDI Act, the Virginia Department of Corrections (DOC) administered the statewide system of 27 CDI programs from 1981 until 1995. Using a Request for Proposals (RFP) format, the DOC contracted with local governmental and non-profit agencies to provide local community corrections programs that focused on misdemeanor and high-needs felony offenders. The DOC funded the CDI programs on a per client basis, \$300 for each misdemeanor and \$4,200 for each felony offender diverted. The total statewide budget was \$8.1 million in Fiscal Year 1994 for approximately 5,043 offenders.

With the enactment of the CCCA and PSA in 1995, the Department of Criminal Justice Services (DCJS) began administering funding to localities for local community-based probation services and pretrial services programs. DCJS offered the opportunity for local governments to apply for funding through a grant application process. The CCCA and PSA grant process enables localities a certain level of autonomy in providing local community-based probation and pretrial services programs.

Since 1995, thirty-eight (38) local community-based programs and twenty-seven (27) pretrial services programs have been developed. Of the 135 cities and counties in Virginia, 126 are currently provided local community-based probation services by one of the 38 CCCA agencies. Pretrial services are provided to 62 cities and counties and 31 jails by one of the 27 PSA agencies (see Appendix B). However, the CCCA and PSA is not fully implemented due to insufficient funding. There are an additional six (6) localities that are mandated by the *Code of Virginia* to provide PSA programs and fifteen (15) localities that have requested

pretrial services. There is one mandated locality that will be eligible to develop CCCA and PSA program services in FY2003.

For FY 2001, almost \$19 million was distributed directly to local governments for CCCA and PSA services. Less than 5% of the total CCCA and PSA appropriation is held back by DCJS for administrative costs such as insurance for program liability coverage, training to program staff, computer network support for the PTCC case management system under development, and staff dedicated to support the CCCA and PSA.

## **Alternative Funding Methodology**

In recent years, the Virginia Community Criminal Justice Association (VCCJA) has studied the possibility of developing a funding formula as a means to assist the Virginia General Assembly in appropriating sufficient money to support the increasing local community correction and pretrial population. In addition, the legislature has directed DCJS in conjunction with VCCJA, VACo, and VML to determine the feasibility of replacing the current system of discretionary grants with an alternative methodology. In order to complete these tasks, the study group reviewed numerous alternatives and various factors as reported here. What follows is a discussion of the current funding methodology used by DCJS to distribute funds appropriated by the legislature for CCCA and PSA programs, the numerous factors to consider in developing an alternative funding methodology, and the alternative funding methodology developed by the study committee. The alternative funding methodology is recommended as a mechanism to facilitate funding requests to the state legislature.

## **Current Funding Methodology**

The current distribution process is based on original CDI program funding which helped guide the initial grant funding amounts in FY 1995. In subsequent years, the CCCA and PSA programs experienced level funding until FY 1999 when the Virginia General Assembly appropriated additional funds for the programs. After determining the funding necessary for administrative costs, public inebriate centers (included in the total appropriations is \$662,947 for 4 public inebriate programs or PIC), and new program development, DCJS used a two-pronged formulaic distribution process that considered current base budgets, average daily caseload, placements, and pretrial investigations to determine increases for individual localities. First, using average daily caseload data, average length of supervision, investigations and minimum staff-to-offender ratios, DCJS determined the programs that were in critical need of additional staff for supervision of offenders and defendants. After awarding funding specifically for additional positions to programs with extremely high staff-to-offender caseload ratios, the remainder of the additional funding was distributed to each program based on the percentage share of the original base amount. The only exceptions to this formula were for the newly established programs that have not suffered from the "level funding" scenario imposed on the more established CCCA and PSA programs. Of the total

\$19,745,828 appropriated for CCCA, PSA, and PIC programs in FY 2001<sup>1</sup>, \$18,848,806 was distributed directly to localities.

### **Factors to Consider in the Development of an Alternative Funding Methodology**

In order to develop a valid and reliable alternative funding methodology for CCCA and PSA programs, a variety of factors must be taken into account. How complex a funding methodology may become is evident as the variables that affect caseload are identified. The following list reveals the number of factors that can be accounted for in a funding methodology, all of which can affect the resources necessary to operate programs effectively:

1. Geography. The following factors all relate to geographical considerations for program operations.
  - Urban versus rural: In large, rural, or multi-jurisdictional programs, the distance traveled by staff to serve courts and meet with offenders and defendants affects the number of cases that can be served by a local probation or pretrial services officer. Conversely, traffic in metropolitan and urban areas may also affect the number of cases and quality of service by local probation and pretrial service officers.
  - The number of satellite offices can affect the time necessary for supervision. While having a satellite office can be considered a convenience, it is also an added expense to equip and continue operations of multiple offices. There are additional costs for equipment and supplies as well as the added travel time and expense for staff.
  - The number of judicial districts and type of courts served by a program can also affect caseload. The more judicial districts and courts served by a program, the greater the need for additional funding to support program utilization.
  - The amount of time officers are requested to be present in court for program referrals and to answer questions about defendant and offender progress increases the use of limited resources.
  - The lack of reliable public transportation in many areas (both rural and suburban) makes it difficult for offenders to get to the local probation office and defendants to get to court in a timely manner. This may impact resources as probation officers can spend more time organizing transportation and court dates as well as increase the length of supervision.
2. Standards of Supervision. Program standards require such things as minimum offender/defendant contacts and mandated program services to be provided. An example of mandated program services includes the screening and assessment of offenders and defendants for substance abuse. Caseloads can be affected based on optional services offered by the programs and expected by the courts and communities served. Examples of optional services include monitoring services, shoplifting prevention, anger management, batterer intervention, cognitive skills, and life skills. Examples of optional local programs include day reporting centers and drug courts.

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<sup>1</sup> This amount includes \$1.5 million for the Governor's Substance Abuse Reduction Effort (SABRE) initiative and new program development funding for four (4) new pretrial programs.



3. **Differential Caseloads and Offender Classification.** Caseloads can be divided into low, medium, and high-risk groups each with different resource requirements to provide adequate supervision and protect public safety. The staff-to-offender ratio for high-risk caseloads should be much lower than for low-risk caseloads. Size of caseload could range from 30:1 to 100:1 depending on offender/defendant risk-needs assessment. Examples of high-risk caseloads may include domestic violence cases or drug addicted individuals. The number of risk/need factors that can be identified affect offender classification. There is currently no statewide standard supervision classification mechanism or instrument for this population<sup>2</sup>.

In addition, funding formulas developed using average daily caseloads and offender to staff ratios do not account for workload associated with inactive cases. These cases can be time consuming and require case management work even though they are inactive. Examples of inactive cases include cases transferred to other programs for supervision (the jurisdiction and ultimate responsibility remains with the original program) and cases involving incarcerated or absconded offenders or defendants placed in an inactive status.

4. **Average Length of Supervision (ALOS).** For local community-based probation programs, the average recommended length of supervision is 180 days for misdemeanants and 365 days for felons. For pretrial services programs, the average recommended length of supervision from arrest/citation to adjudication/conclusion is 60 days for misdemeanants and 120 days for felons. However, in the last several years, local programs have seen an increase in the number of adult domestic violence cases from the Juvenile and Domestic Relations Courts. These cases are often required to complete a twenty-week Batterers Intervention program that can take an average of 8 to 12 months to complete. There are also jurisdictions that do not hold criminal court on a daily basis which increases the length of time it takes to process a case. These situations compound the ability of programs to keep offenders and defendants within the recommended average length of supervision.
5. **Program Utilization.** Caseload size and program placements vary depending on use of diversion and judicial discretion.
6. **New Program Development.** There are currently over 20 localities that do not have local community-based probation or pretrial services available that are either mandated to have services or have requested services in their localities.
7. **Legislative and Administrative Mandates and Changes.** Changes such as the development of the Pretrial and Community Corrections Case (PTCC) Management System, the increasing use of video arraignment equipment, the implementation of the statewide screening and assessment for substance abuse (Simple Screening Instrument or SSI and the Addiction Severity Index or ASI), and the Governor's Substance Abuse Reduction

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<sup>2</sup> The Levels of Service Inventory (LSI) is one example of an instrument that identifies risk/needs. The LSI identifies ten (10) areas of risk and is currently being pilot tested in three (3) programs in the state. Preliminary results of these pilot sites will be available in the Fall of 2001.

Effort (SABRE) initiative affect the amount of funding required to operate programs effectively.

8. Data Submissions. Other than aggregate monthly reporting, a standard data collection process is currently not available for this population. The PTCC case management system currently under development will standardize and facilitate data collection and accessibility for the pre- and post-trial population.
9. Pay Differentials. Cost of living or merit increases are determined by the locality and therefore vary for each locality across the state. There are also disparities in current salaries for similar positions due to differential seniority levels producing differences in increases awarded.
10. Workload Limits. Each officer is available approximately 120 hours per month after factoring in holidays, training, and annual leave.

How we account for these factors and regional variations, if at all, will affect the complexity of any funding methodology developed. It is not enough to understand that “variations in probation services complicate the task of developing a uniform funding formula that accurately reflects the time that agencies spend working with offenders” (Funding for Probation Services, Jan. 1996). It is also important to recognize that the variations that exist between local community-based probation and pretrial services programs in Virginia are the result of locally determined policies, procedures and services influenced by statutes, court decisions, resources, and other factors specific to the individual jurisdiction and are there by design. Therefore, it should not be the intention to standardize local community-based probation and pretrial service programs across the state.

With all of these factors to consider, we have been directed by the Virginia Legislature to determine the feasibility of a funding formula or methodology. The methodology should consider caseloads and other factors as appropriate to ensure an equitable distribution of funding while maintaining the current level of accountability provided by the discretionary grant process. To accomplish this, we offer the following alternative funding methodology which will facilitate the request for funds and that may be suitable for distribution of funds.

### **Alternative Funding Methodology Option**

In recent years, the Virginia Community Criminal Justice Association (VCCJA) has studied the possibility of an alternative funding methodology as a means to assist the Virginia General Assembly in appropriating sufficient money to support the increasing local community corrections and pretrial population. A draft funding formula was developed using average daily caseloads, offender to staff ratios, administrative to case management staff ratios, treatment and service needs, and general operating expenditures as factors in this process. However, the methodology developed may not adequately take into consideration other issues and concerns identified such as geography, resource availability, and local practices. Furthermore, any funding methodology should be flexible enough to

accommodate differences in cost of living, local resource availability, operational expenses, and local practices.

In response to the legislative directive, the study committee modified and agreed to the following alternative funding methodology to use to request funding for CCCA and PSA programs from the Virginia General Assembly. This alternative methodology is based on three (3) major factors - average daily caseload, pretrial investigations, and total program placements - to generate the necessary funding to operate CCCA and PSA programs with minimum mandated program services. In addition, the formula uses the following assumptions and figures to calculate the necessary funding for the programs:

1. Offender or Investigation to Staff ratios are used on the current adjusted average daily caseloads and average monthly investigations. *Caseloads will be adjusted to account for the recommended average length of stay under supervision*<sup>3</sup>. The following ratios reflect accepted practices and were agreed to by the study committee (these ratios only minimally account for some of the identified differential caseload issues):
  - For CCCA programs the appropriate offender-to-staff ratio = 60:1 for supervision
  - For PSA programs the appropriate defendant-to-staff ratio is 40:1 for supervision
  - For PSA programs the appropriate defendant-to staff-ratio is 60:1 for investigations
2. For both supervisory and clerical staffs, the suitable administrative to staff ratio is considered to be 1:7.
3. Preliminary reports indicate that approximately 80% of the offenders and defendants placed in CCCA and PSA programs require treatment or other services. It is anticipated that 25% of the total population will require subsidized treatment services at an average cost of \$500 per offender and \$250 per defendant. For CCCA, this is calculated by total placements  $\times$  25%  $\times$  \$500. For PSA, this is calculated by total placements  $\times$  25%  $\times$  \$250.
4. Annual operating expenditures would be \$5,000 per FTE. This includes, but is not limited to rent, utilities, supplies, training, travel, and equipment. For both CCCA and PSA, this is calculated by multiplying the total FTE by \$5,000.
5. Salaries are locally determined, however the following salaries are offered as a statewide average which include fringe benefits and startup equipment/supply requirements:
  - Local community-based probation and pretrial officers = \$35,000 per FTE
  - Clerical salary = \$25,000 per FTE
  - Supervisory salary = \$50,000 per FTE

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<sup>3</sup> The recommended Average Length of Supervision (ALOS) for CCCA programs is 6 months for misdemeanants and 1 year for felons. The ALOS for PSA programs is 60 days for misdemeanants and 120 days for felons.

In addition to using the variables outlined above, the study committee agreed that the following stipulations should be adopted as part of the methodology:

1. A *Grandfather Clause* would be in effect that would prevent existing localities and programs from receiving less than the current award during the initial implementation of any funding formula unless program performance outcomes of the program fall below projected levels (as measured by ADC, placements, and investigations).
2. For any qualifying program, the minimum operating budget shall not fall below \$50,000.
3. DCJS will have the discretion to deviate from this formula and may, at its discretion, adjust the grant award as necessary, based on program performance outcomes.
4. Variance from the formula could be granted by DCJS on an individual basis if requested based on available funds and adequate justification. Examples for a variance request include, but are not limited to cost of living changes, local resource availability, or geographical considerations.
5. New program development grants will continue to be awarded for mandated localities, as funding is made available.
6. DCJS will continue to holdback between 5 – 10% of the total appropriation for overhead expenses such as insurance for program liability coverage, training to program staff, computer network support for the PTCC case management system under development, and staff dedicated to support the CCCA and PSA initiative.
7. The Public Inebriate Centers (PIC) will continue to be funded from the CCCA and PSA appropriation, as necessary.
8. If funding from the General Assembly is not adequate to meet all current programming needs, funding will be awarded proportionately among all programs based on the current distribution process.
9. Salary levels, caseload and staff ratios, treatment needs, and operating expenditures will be reviewed and adjusted every two years, as needed.
10. To maintain the current level of accountability, programs will continue to be required to submit quarterly progress and financial reports, monthly reports, and other reports as required. Programs will also be responsible for reporting on local program goals, objectives and outcome measures to ensure funding accountability and quality services.

### **Alternative Funding Methodology Illustration**

Based on monthly reports submitted by programs to DCJS, as of June 2000 the average daily caseload was approximately 11,765 offenders on CCCA program supervision with a total of 31,563 new placements<sup>4</sup>. The average daily caseload for PSA programs was 2,703 with

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<sup>4</sup> This is preliminary and unedited data for CCCA programs and subject to change.

annual placement of 11,739 and the annual number of investigations was 42,449 with 3,538 average monthly investigations<sup>5</sup>.

Based on the preliminary program data for FY 2000, the total amount of funding necessary for the operation of CCCA and PSA programs is \$23,940,010. The alternative funding methodology suggests that an additional \$4,194,182 would be required for optimum program operations. The following is an illustration of the application of the alternative funding methodology on the FY 2000 statewide data:

1. Case Management FTEs.

CCCA ADC	$11,765 \div 60 = 196.1$	FTEs $\times \$35,000 = \$ 6,862,917$
PSA ADC	$2,703 \div 40 = 67.6$	FTEs $\times \$35,000 = \$ 2,365,125$
<u>PSA Investigations</u>	$3,538 \div 60 = 60.0$	FTEs $\times \$35,000 = \$ 2,063,493$
Total	323.7 FTEs	\$11,329,500

2. Supervisory and Clerical FTEs.

Supervisory	$323.7 \div 7 = 46$	FTEs $\times \$50,000 = \$2,300,000$
<u>Clerical</u>	$323.7 \div 7 = 46$	FTEs $\times \$25,000 = \$1,150,000$
Total	92 FTEs	= \$3,450,000

3. Treatment and other services.

CCCA placements	$31,563 \times 25\% = 7,890.75$	$\times \$500 = \$3,945,375$
<u>PSA placements</u>	$11,739 \times 25\% = 2,934.75$	$\times \$250 = \$ 733,688$
Total		= \$4,679,063

4. Annual Operational Expenditures.

Case Management FTEs	$323.7 \times \$5,000 = \$1,618,500$
Supervisory FTEs	$46.0 \times \$5,000 = \$ 230,000$
<u>Clerical FTEs</u>	$46.0 \times \$5,000 = \$ 230,000$
Total	= \$2,078,500

5. Total funding required for CCCA and PSA programs.

CCCA and PSA programs	= \$21,537,063
PIC programs	= \$ 662,947
DCJS (5%)	= \$ 1,140,000
<u>New Program starts (4)</u>	= \$ 600,000
Grand total	= \$23,940,010

## Recommendations

After reviewing and studying the feasibility of replacing the current system of discretionary grants with a variety of alternative funding methodologies to request funding from the General Assembly and distribute funding for the Comprehensive Community Corrections

<sup>5</sup> This is preliminary and unedited data for PSA programs and subject to change.

Act (CCCA) and the Pretrial Services Act (PSA), the study committee makes the following recommendations:

1. Adoption of the recommended alternative funding methodology to use as a framework for requesting funds from the Virginia General Assembly for CCCA and PSA programs.
2. Creation of a workgroup to study the implications of applying the alternative funding methodology to distribute funds to localities and programs. The study group should explore the following issues identified in this report and report to the Virginia General Assembly by October 15, 2001:
  - The impact of differential caseload and workload on program operations.
  - The timeliness and accuracy of data submissions. Other than aggregate monthly reporting, a standard data collection process is currently not available for this population. The PTCC case management system, which is under development, will standardize data collection for the pre- and post-trial population and be useful in providing the data necessary to measure program outcomes, accountability, and facilitate the implementation of the alternative funding methodology.
  - The development of and compliance with of Supervision Standards. Program standards, policies and procedures are not audited nor are programs certified compliant with minimum standards. DCJS would require FTEs to create a standards compliance and certification capacity to monitor programs and ensure that programs are compliant with Standards, Policies, and Procedures.
  - Supervision Classification. Develop and study the feasibility of implementing a uniform assessment process that will standardize definitions and a method of determining risk and needs. There are currently no uniform, statewide methods of categorizing offenders by risk at the general district court level in Virginia and it would take significant time and resources to implement a uniform method to assess offenders. However, three local probation programs are pilot testing the LSI in order to determine if this risk assessment instrument is feasible to use (valid and reliable) with the population in Virginia. Furthermore, a risk assessment study has been conducted on defendants in pretrial programs in seven (7) different localities. The results of this study are currently being analyzed and the findings will be forthcoming.
  - Local Funding and Fees. Determine how the methodology will be adjusted to account for locally funded positions, local funding, and program fees without unfairly “punishing” localities that cannot pay for additional FTEs.
3. Delayed implementation of an alternative funding methodology pending the outcome of the workgroup study results with input from wider review of the proposed methodology. Determine how we account for the regional differences and variations in
  - the number and type of offenders/defendants on supervision,
  - the length of supervision,
  - the services provided and or available to offenders and defendants (SSI/ASI, anger management, domestic battering treatment programs),
  - number of judicial districts covered,
  - area of coverage,

- variations in judicial use of probation and pretrial programs,
  - time in court, and
  - number of investigations.
4. That, although state General Funds do not meet the entire cost of local probation and pretrial services, the Virginia General Assembly should fully support state-mandated activities.

## **Acknowledgements**

The following individuals served as study committee members for this report:

Virginia Association of Counties (VACo)

C. Flippo Hicks, General Counsel

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## ***References***

Minnesota Planning. *Distribution Formula: Probation Caseload Reduction Funding*. St.

Paul: Criminal Justice Center, February 1997.

Program Evaluation Division. *Funding for Probation Services*. St. Paul: Office of the

Legislative Auditor, January 1996.

Virginia Community Criminal Justice Association. *Local Probation Caseload Research*. 1998.

## **Appendices**

Appendix A: Item 465 #10c of the 2000 Appropriations Act

Appendix B: Map. Local Community-based Probation and Pretrial Services:

Administrative Agencies and Localities Served

Appendix C: List. Local Community-based Probation and Pretrial Services:

Administrative Agents and Localities Served by Geographical Area

Appendix D: Code of Virginia §§ 19.2-303.3, 53.1-180 through 53.1-185.3



## Appendix A: Item 465 #10c of the 2000 Appropriations Act

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### Item 465 #10c

#### Public Safety

Department Of Criminal Justice Services

Language

#### Language:

Page 323, line 46, after "2.", insert "a."

Page 323, after line 54, insert:

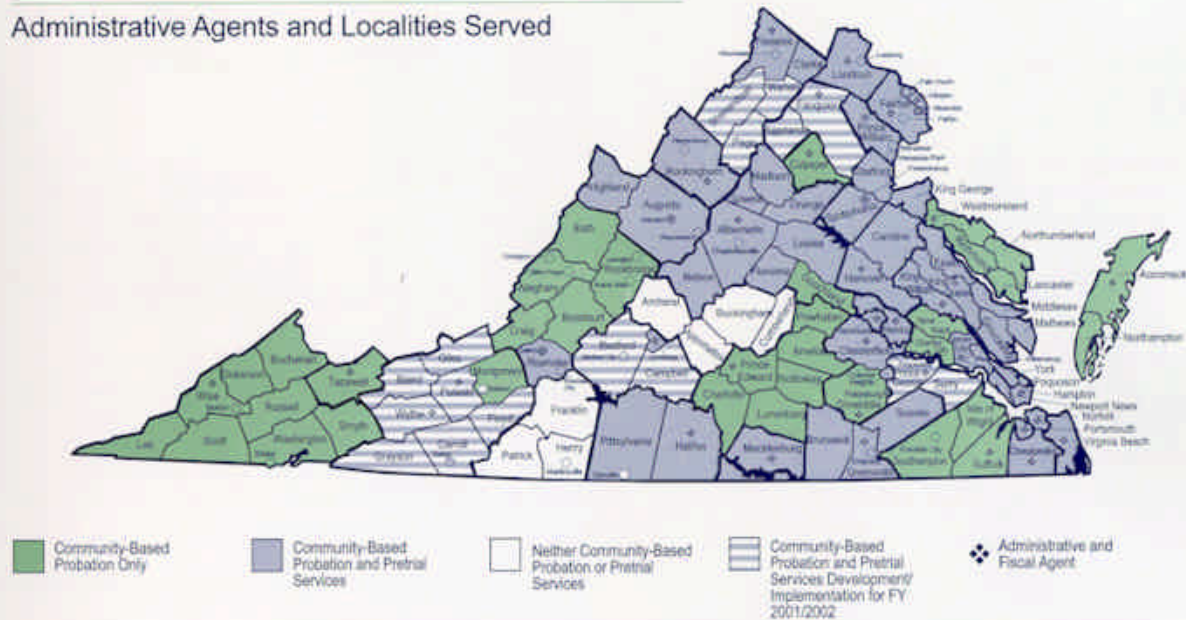
"b. The Department of Criminal Justice Services, in conjunction with the Virginia Community Criminal Justice Association, the Virginia Municipal League, and the Virginia Association of Counties, shall study the feasibility of replacing the current system of discretionary grants with an alternative funding methodology to distribute funding for the Comprehensive Community Corrections Act and the Pretrial Services Act. Such funding methodology shall consider caseloads and other factors as appropriate to ensure an equitable distribution of funding while maintaining the current level of accountability provided by the discretionary grant process. The Department shall report its findings and recommendations to the Chairmen of the Senate Finance and House Appropriations Committees by October 15, 2000."

#### Explanation:

(This amendment directs the Department of Criminal Justice Services to study alternatives for the distribution of funds for community corrections and pretrial services.)

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### Administrative Agents and Localities Served



**Department of Criminal Justice Services**  
Correctional Services Section

## Appendix C: Local Community-based Probation and Pretrial Services: Administrative Agencies and Localities Served by Geographical Area

### Community-Based Probation and Pretrial Services

#### Administrative Agents and Localities Served by Geographical Area

<b>Accomack County</b> .....	Accomack, Northampton	<b>Mecklenburg County</b> .....	Mecklenburg
<b>Albemarle County</b> .....	Albemarle, Charlottesville, Goochland, Nelson, Fluvanna, Greene, Louisa, Orange, Madison	<b>Norfolk</b> .....	Norfolk
<b>Alexandria</b> .....	Alexandria	<b>Petersburg</b> .....	Petersburg, Dinwiddie
<b>Arlington County</b> .....	Arlington and Falls Church	<b>Portsmouth</b> .....	Portsmouth
<b>Chesapeake</b> .....	Chesapeake	<b>Prince Edward County</b> .....	Prince Edward, Charlotte, Lunenburg, Nottoway, Amelia, Powhatan
<b>Chesterfield County</b> .....	Chesterfield County, Colonial Heights	<b>Prince George County</b> .....	Prince George, Hopewell, Surry
<b>Culpeper County</b> .....	Culpeper	<b>Prince William County</b> .....	Prince William, Manassas, Manassas Park
<b>Fairfax County</b> .....	Fairfax County, Fairfax City	<b>Pulaski County</b> .....	Pulaski, Montgomery, Giles, Floyd, Radford, [Bland, Grayson, Galax] - see Wythe below
<b>Fauquier County</b> .....	Fauquier, Rappahannock County	<b>Richmond City</b> .....	Richmond City
<b>Frederick County</b> .....	Frederick, Clarke, Winchester, Page, Shenandoah, Warren	<b>Rockingham County</b> .....	Rockingham, Harrisonburg
<b>Fredericksburg City</b> .....	Fredericksburg, Spotsylvania, Stafford, King George	<b>Salem</b> .....	Salem, Roanoke City, Roanoke County, Craig, Botetourt, Rockbridge, Buena Vista, Lexington, Alleghany, Covington, Clifton Forge, Bath
<b>Greensville County</b> .....	Greensville, Emporia, Brunswick, Sussex	<b>Staunton</b> .....	Staunton, Waynesboro, Augusta, Highland
<b>Halifax</b> .....	Halifax, Pittsylvania	<b>Suffolk</b> .....	Suffolk, Franklin City, Southampton, Isle of Wight
<b>Hampton</b> .....	Hampton, Newport News	<b>Tazewell</b> .....	Tazewell County
<b>Hanover</b> .....	Hanover, Caroline	<b>Virginia Beach</b> .....	Virginia Beach
<b>Henrico</b> .....	Henrico	<b>Westmoreland County</b> .....	Westmoreland, Richmond County, Northumberland, Lancaster
<b>James City County</b> .....	James City County, Williamsburg City, Poquoson, York, New Kent, Charles City	<b>Wise</b> .....	Wise, Norton, Smyth, Washington, Bristol, Russell, Buchanan, Dickenson, Scott, Lee
<b>King William County</b> .....	King William, Essex, Middlesex, Mathews, King and Queen, Gloucester	<b>Wythe County</b> .....	Wythe, Carroll ( <i>Provides services by contract with Pulaski County for Bland, Grayson and Galax</i> )
<b>Loudoun County</b> .....	Loudoun County		
<b>Lynchburg</b> .....	Lynchburg, Bedford County, Bedford City, Campbell		

## Appendix D: Code of Virginia Relating to Comprehensive Community Corrections Act and Pretrial Services Act

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**§ 19.2-303.3.** Sentence to local community-based probation program; eligibility for participation; evaluation; sentencing; withdrawal or removal from program; payment for costs.

- A. Any defendant who is (i) convicted on or after July 1, 1995, of a misdemeanor or a felony that is not a felony act of violence as defined in § [19.2-297.1](#), and for which the court imposes a sentence of twelve months or less, (ii) no younger than eighteen years of age or is considered an adult at the time of conviction; and (iii) who meets other eligibility criteria pursuant to this section and § [53.1-180](#) may be sentenced to a local community-based probation program established pursuant to § [53.1-181](#) by the local governing bodies within that judicial district or circuit.
- B. Prior to or at the time of sentencing, the court may order the defendant placed in a local community-based probation program pursuant to § [53.1-181](#) upon a determination by the court that the defendant may benefit from the program and is capable of returning to society as a productive citizen with a reasonable amount of supervision and intervention including programs and services set forth in § [53.1-182.1](#). All or part of any sentence imposed that has been suspended, shall be conditioned upon the defendant's successful completion of any program established pursuant to § 53.1-181. The court may impose terms and conditions of supervision as it deems appropriate, including that the defendant abide by any additional requirements of supervision imposed or established by the program during the period of probation supervision.
- C. Any officer of a local probation program established or operated pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ [53.1-180](#) et seq.) may seek a warrant or capias from any judicial officer for the arrest of any person on probation and under its supervision for removal from the program for (i) intractable behavior; (ii) refusal to comply with the terms and conditions imposed by the court; (iii) refusal to comply with the requirements of local probation supervision established by the program; or (iv) the commission of a new offense while on local probation and under program supervision. Upon arrest, the defendant shall be brought before the court for a hearing. Upon finding that the defendant exhibited intractable behavior as defined herein, or refused to comply with terms and conditions imposed, the court may revoke all or part of the suspended sentence and supervision, and commit the defendant to serve whatever sentence was originally imposed or impose such other terms and conditions of supervision as it deems appropriate. "Intractable behavior" is that behavior which, in the determination of the court, indicates a defendant's unwillingness or inability to conform his behavior to that which is necessary for successful completion of the program or that the defendant's behavior is so disruptive as to threaten the successful completion of the program by other participants.

D. The court may order a defendant sentenced pursuant to this section to pay an amount to defray the cost of the services received in accordance with subsection D of § 53.1-185.2.

**§ 53.1-180. Purpose.**

It is the purpose of this article to enable any city, county or combination thereof to develop, establish and maintain local community-based probation programs to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of felonies which are not felony acts of violence, as defined in § [19.2-297.1](#) and sentenced pursuant to § [19.2-303.3](#), for whom the court imposes a sentence of twelve months or less and who may require less than institutional custody.

The article shall be interpreted and construed so as to effect the following purposes:

1. To allow individual cities, counties, or combinations thereof greater flexibility and involvement in responding to the problem of crime in their communities;
2. To provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;
3. To provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;
4. To permit cities, counties or combinations thereof to operate and utilize local community-based probation programs and services specifically designed to meet the rehabilitative needs of selected offenders; and
5. To provide appropriate postsentencing alternatives in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

**§ 53.1-181. Establishment of program.**

To facilitate local involvement and flexibility in responding to the problem of crime in their communities and to permit locally designed programs which will fit its needs, any city, county or combination thereof may, and any city, county or combination thereof which is required by § [53.1-82.1](#) to file a community-based corrections plan shall establish a system of community-based services pursuant to this article. This system is to provide alternative programs for defendants and offenders who, pursuant to § [19.2-303.3](#), are convicted, sentenced and placed on probation services through a court and who are considered suitable candidates for programs which require less than incarceration in a local correctional facility. Such programs and services may be provided by qualified public agencies or private agencies pursuant to appropriate contracts.

**§ 53.1-182. Board to prescribe standards; criminal justice plan.**

The Board of Criminal Justice Services shall approve standards as prescribed by the Department of Criminal Justice Services for the development, implementation, operation and evaluation of local community-based probation programs, services and facilities authorized

by this article. Any city, county or combination thereof which establishes programs and provides services pursuant to this article shall submit a biennial criminal justice plan to the Department of Criminal Justice Services for review and approval.

**§ 53.1-182.1. Mandated services; optional programs.**

Any city, county or combination thereof which elects or is required to establish a local community-based probation program pursuant to this article shall provide to the judicial system the following programs and services as components of local probation supervision: community service; home incarceration with or without electronic monitoring; electronic monitoring; and substance abuse screening, assessment, testing and treatment. Additional programs and services, including, but not limited to, local day reporting center programs and services, local halfway house programs and services for the temporary care of adults placed on probation, and law enforcement diversion into detoxification center programs, as defined in § [9-173.2](#), may be established by the city, county or combination thereof.

**§ 53.1-182.1:1. Form of oath of office for local probation officers.**

Every local probation officer who is an employee of a local community-based probation agency, established by any city, county or combination thereof, or operated pursuant to this article, that provides probation and related services pursuant to the requirements of this article, shall take an oath of office as prescribed in § [49-1](#) before entering the duties of his office. The oath of office shall be taken before any general district or circuit court judge in any city or county that has established services for the judicial system pursuant to this article.

**§ 53.1-183. Community criminal justice boards.**

Each county or city or combination thereof developing and establishing a local pretrial services or a community-based probation program pursuant to the provisions of this article shall establish a community criminal justice board. Each county and city participating in a local pretrial or community-based probation program shall be represented on the community criminal justice board. In the event that one county or city appropriates funds to the program as part of a multijurisdictional effort, any other participating county or city shall be considered to be participating in a program if such locality appropriates funds to the program. Appointments to the board shall be made by each local governing body. In cases of multijurisdictional participation, unless otherwise agreed upon, each participating city or county shall have an equal number of appointments. Boards shall be composed of the number of members established by resolution or ordinance of each participating jurisdiction. Each board shall include, at a minimum, the following mandatory members: a member from each governing body or a city or county manager, county administrator or executive, or assistant or deputy appointed by the governing body; a judge of the general district court; a circuit court judge; a juvenile and domestic relations district court judge; a chief magistrate; one chief of police or the sheriff in a jurisdiction not served by a police department to represent



law enforcement; an attorney for the Commonwealth; a public defender, and/or an attorney who is experienced in the defense of criminal matters; a sheriff or the regional jail administrator responsible for jails serving those jurisdictions involved in the local pretrial services and community-based probation program; a local educator; and a community services board administrator.

**§ 53.1-184.** Withdrawal from program.

Any participating city or county may, at the beginning of any calendar quarter, by ordinance or resolution of its governing authority, notify the Director of the Department of Criminal Justice Services and, in the case of multijurisdictional programs, the other member jurisdictions, of its intention to withdraw from the local community-based probation program. Such withdrawal shall be effective as of the last day of the quarter in which such notice is given.

**§ 53.1-184.1.**

Repealed by Acts 1994, 2nd Sp. Sess., cc. 1 and 2, effective July 1, 1995.

**§ 53.1-184.2.**

Repealed by Acts 1999, c. 372.

**§ 53.1-185.** Responsibilities of community criminal justice boards.

On behalf of the counties, cities, or combinations thereof which they represent, the community criminal justice boards shall have the responsibility to:

1. Advise on the development and operation of local pretrial services and community-based probation programs and services pursuant to § [19.2-152.2](#) and § 53.1-182.1 for use by the courts in diverting offenders from local correctional facility placements;
2. Assist community agencies and organizations in establishing and modifying programs and services for offenders on the basis of an objective assessment of the community's needs and resources;
3. Evaluate and monitor community programs, services and facilities to determine their impact on offenders;
4. Develop and amend the criminal justice plan in accordance with guidelines and standards set forth by the Department of Criminal Justice Services and oversee the development and amendment of the community-based corrections plan as required by § [53.1-82.1](#) for approval by participating local governing bodies;

5. Review the submission of all criminal justice grants regardless of the source of funding;
6. Facilitate local involvement and flexibility in responding to the problem of crime in their communities; and
7. Do all things necessary or convenient to carry out the responsibilities expressly given in this article.

**§ 53.1-185.1. Eligibility to participate.**

- A. Any city, county, or combination thereof, which elects to, or is required to establish programs shall participate in a local community-based probation program by ordinance or resolution of its governing authority. In cases of multijurisdictional participation, each ordinance or resolution shall identify the chosen administrator and fiscal agent as set forth in § [53.1-185.3](#). Such ordinances or resolutions shall be provided to the Director of the Department of Criminal Justice Services, regardless of funding source for the established programs.
- B. Any local community-based probation program established pursuant to this article shall be available as a sentencing alternative for persons sentenced to incarceration in a local correctional facility or who otherwise would be sentenced to incarceration and who would have served their sentence in a local or regional correctional facility.

**§ 53.1-185.2. Funding; failure to comply; prohibited use of funds.**

- A. Counties and cities shall be required to establish a local community-based probation program under this article only to the extent funded by the Commonwealth through the general appropriation act.
- B. The Department of Criminal Justice Services shall periodically review each program established under this article to determine compliance with the submitted plan and operating standards. If the Department of Criminal Justice Services determines that a program is not in substantial compliance with the submitted plan or standards, the Department of Criminal Justice Services may suspend all or any portion of financial aid made available to the locality for purposes of this article until there is compliance.
- C. Funding shall be used for the provision of services and operation of programs and facilities but shall not be used for capital expenditures.
- D. The Department of Criminal Justice Services, in conjunction with local boards, shall establish a statewide system of supervision and intervention fees to be paid by offenders participating in programs established under this article for reimbursement towards the costs of their supervision.



- E. Any supervision or intervention fees collected by local programs established under this article shall be retained by the locality serving as fiscal agent and shall be utilized solely for program expansion and program development, or to supplant local costs of the program operation. Any program collecting such fees shall keep records of the collected fees, report the amounts to the locality serving as fiscal agent and make all records available to the community criminal justice board. Such fees shall be in addition to any other imposed on a defendant or offender as a condition of a deferred proceeding, conviction or sentencing by a court as required by general law.

**§ 53.1-185.3.** City or county to act as administrator and fiscal agent.

Any single participating city or county shall act as the administrator and fiscal agent for the funds awarded for purposes of implementing a local pretrial services or community-based probation program. In cases of multijurisdictional participation, the governing authorities of the participating localities shall select one of the participating cities or counties, with its consent, to act as administrator and fiscal agent for the funds awarded for purposes of implementing the local pretrial services or community-based probation program on behalf of the participating jurisdictions.

The participating city or county acting as administrator and fiscal agent pursuant to this section may be reimbursed for the actual costs associated with the implementation of the local pretrial services or community-based probation program, including fiscal administration, accounting, payroll services, financial reporting, and auditing. Any costs must be approved by the community criminal justice board and reimbursed from those funds received for the operation of the local community-based probation program, and may not exceed one percent of those funds received in any single fiscal year.